

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DENISE SWEENEY,

Plaintiffs,

v.

LOWE'S HOME CENTERS, LLC,

Defendants.

NOTICE OF REMOVAL

Civil Action #: 2:20-cv-5353

**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK:**

Defendant, Lowe's Home Centers, LLC, ("Defendant"), by its attorneys, GOLDBERG SEGALLA, LLP, upon information and belief, respectfully petitions the Court, pursuant to 28 U.S.C. 1441, as follows:

1. On or about August 26, 2020, the above-captioned civil action was commenced and is now pending in the Supreme Court of the State of New York, County of Suffolk under Index No.: 611695/2020. A trial has not yet been had therein. A copy of plaintiff's Summons and Complaint is annexed as **Exhibit "A"**. Plaintiff's complaint did not state explicitly the amount of damages sought. On or about September 25, 2020, Defendant filed a Verified Answer to plaintiff's complaint, a copy of which is annexed as **Exhibit "B"**.

2. The action seeks monetary damages by plaintiff, for alleged personal injuries sustained as a result of an alleged slip and fall accident that occurred at the Lowe's store located at 100 Long Island Expressway, Smithtown, NY 10701. Plaintiff alleges that she was "caused to be injured as a result of a dangerous and hazardous condition" on the premises. See Exhibit A at ¶22.

3. On or about September 25, 2020, defendants served a demand on plaintiff requesting a statement setting forth damages pursuant to New York Civil Practice Laws and Rules

Section 3017(c). See Exhibit “C”. On or about October 22, 2020, plaintiff provided a written response to defendant’s demand for a statement of damages and asserted an ad damnum of \$5,000,000. A copy of plaintiff’s response is annexed hereto as **Exhibit “D.”**

4. The Supreme Court of the State of New York, County of Suffolk, the Court in which the State Court Action is pending, is located within the jurisdiction of the United States District Court for the Eastern District of New York.

5. Removal of this action is proper under 28 U.S.C. § 1441, *et seq.* The Court has jurisdiction over this action, in accordance with 28 U.S.C. § 1332(a)(1), because it is a civil action between citizens of different states in which the amount in controversy exceeds the sum of \$75,000, exclusive of interest and cost. Pursuant to 28 U.S.C. § 1446(b)(3), this Notice of Removal is timely, as it has been filed with this Court within 30 days of plaintiff’s response to the Defendant’s Demand for a Statement of Damages. See Exhibit “D”.

6. The action involves a controversy between citizens of different states, in that: (a) Plaintiff is now and was at the time the action was commenced, a resident of the State of New York; and (b) Defendant is now and was at the time the action was commenced, a limited liability company, with Lowe’s Companies, Inc. as its sole member. Lowe’s Companies, Inc. is incorporated in the State of North Carolina with its principal place of business in the State of North Carolina.

7. Therefore, there is complete diversity between the parties

8. This action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332 and is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441 and § 1446.

9. Pursuant to the requirements of 28 U.S.C. § 1446, all defendants who have been properly joined and served consent to the removal of this action.

10. Written notice of the filing of this Notice of Removal will be served in to plaintiff promptly after the filing of this Notice.

11. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Court of the Supreme Court of the State of New York, County of Suffolk, promptly after the filing of this Notice.

12. Attached to this Notice, and by reference made a part hereof, are true and correct copies of all process and pleadings filed herein.

13. By filing this Notice of Removal, Defendant does not waive any defense which may be available to it, including, but not limited to, its right to contest *in personam* jurisdiction over Defendants and improper service of process


14. No previous application has been made for the relief requested herein.

WHEREFORE Defendant prays that the above-captioned action now pending in the Supreme Court in the State of New York, County of Suffolk, be removed therefrom to this Honorable Court, that this Court accept jurisdiction of this action, and that this action be placed on the docket of this Court for all further proceedings as though this action had been originally instituted in this Court.

PLEASE TAKE FURTHER NOTICE, defendant respectfully requests a trial by jury of this action pursuant to Fed. R. Civ. P. 38(d).

Dated: Garden City, New York
November 4, 2020

GOLDBERG SEGALLA LLP



Stefan A. Borovina, Esq.
Attorney for Defendants
Lowe's Home Centers, LLC
200 Garden City Plaza – Suite 520
Garden City, NY 11530
Mailing Address:
P.O. Box 780, Buffalo, NY 14201

Phone: 516.281.9800
Fax: 516.281.9801
GS File No.: 9883.0177
sborovina@goldbergsegalla.com

TO:

BRAGOLI & ASSOCIATES, P.C.

Joseph M. Sorce, Esq.

Attorneys for Plaintiff

300 Broadhollow Road, Suite 100W

Melville, NY 11747

(631) 423-7755

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DENISE SWEENEY,

Plaintiffs, Civil Action #: 2:20-cv-5353

v.

LOWE'S HOME CENTERS, LLC,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2020, I filed the foregoing Notice of Removal to Federal Court with the Clerk of the Southern District Court using its CM/ECF system, and on November 4, 2020 hereby I certify that I caused a true and correct copy of the Notice of Removal to be served upon the plaintiffs in this action by placing a copy in the custody of the United States Postal Service and causing the same to be delivered via first class mail/postage prepaid to the following address:

BRAGOLI & ASSOCIATES, P.C.

Joseph M. Sorce, Esq.
Attorneys for Plaintiff
300 Broadhallow Road, Suite 100W
Melville, NY 11747
(631) 423-7755

GOLDBERG SEGALLA LLP



Stefan A. Borovina, Esq.
Attorney for Defendants
Lowe's Home Centers, LLC
200 Garden City Plaza – Suite 520
Garden City, NY 11530
Mailing Address:
P.O. Box 780, Buffalo, NY 14201
Phone: 516.281.9800
Fax: 516.281.9801
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sborovina@goldbergsegalla.com